

PAUL, HASTINGS, JANOFSKY & WALKER LLP
Robert L. Sherman (RS 5520)
Catherine M. Clayton (CC 5575)
75 East 55th Street
New York, NY 10022
(212) 318-6000

Attorneys for Plaintiff FragranceNet.com, Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FragranceNet.com, Inc.,

Plaintiff,

- against -

FragranceX.com Inc. and John Does 1-20

Defendant.

CV 06 2225 (JFB) (AKT)

**SECOND AMENDED
COMPLAINT**

Plaintiff FragranceNet.com, Inc. (“FragranceNet.com” or “Plaintiff”), by and through its attorneys Paul, Hastings, Janofsky & Walker LLP, as and for its Second Amended Complaint against defendants FragranceX.com (“FragranceX.com”) and John Does 1-20 (collectively, “Defendants”) alleges as follows, upon actual knowledge with respect to itself and its own acts and upon information and belief as to all other matters:

NATURE OF THE ACTION

1. This is an action to recover for the damage caused by, and to prevent further damage arising from, Defendants’ infringement of FragranceNet.com’s copyrights in and to more than nine hundred (900) photographs. Plaintiff FragranceNet.com owns and operates an on-line retail store that sells perfumery and related products. This action arises out of FragranceX.com’s taking, misappropriating and copying of more than nine hundred (900)

photographs from FragranceNet.com's site (the "Photographs") and, without permission or compensation to FragranceNet.com, using copies of them on the site of its competing on-line retail store, www.fragrancex.com. FragranceX.com has generated substantial revenue as a result of the use of the Photographs on its site, to FragranceNet.com's great and irreparable harm.

2. On information and belief, defendant FragranceX.com also has provided the Photographs to others for use in connection with the sale or distribution of perfumery and related products. The identities of those entities currently are unknown, and are listed as defendants John Does 1-20 herein. On discovery of the true identities of John Does 1-20, plaintiff intends to amend this complaint to list them as parties. On information and belief, FragranceX.com and John Does 1-20 have generated substantial revenue as a result of their use of the Photographs, to FragranceNet.com's great and irreparable harm.

3. FragranceNet.com seeks preliminary and permanent injunctive relief and compensatory and punitive damages based on Defendants' copyright infringement and FragranceX.com's contributory infringement.

4. This action arises under the copyright laws of the United States, 17 U.S.C. § 101 *et seq.*

PARTIES

5. FragranceNet.com is a Delaware corporation having its principal place of business at 104 Parkway Drive South, Hauppauge, NY 11788.

6. On information and belief, defendant FragranceX.com is a New York corporation having a business address of 49-09 5th Street, Long Island City, NY 11101.

7. On information and belief, defendants John Does 1-20 are entities or individuals associated or affiliated with defendant FragranceX.com and which, or who, participated in the wrongful acts and infringement alleged herein.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

9. This Court has personal jurisdiction over FragranceX.com because it resides in this district and because Defendants' tortious conduct takes place and causes FragranceNet.com injury in this state and district.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

FACTUAL ALLEGATIONS

11. FragranceNet.com is in the business of selling perfumery and related goods via its on-line retail store posted at www.fragrancenet.com. That site has been in operation since June 1997, and, by virtue of FragranceNet.com's efforts and expenditures, has become one of the most successful on-line perfume stores in the United States.

12. FragranceNet.com has expended significant time, effort and money to develop its on-line retail store.

13. In developing its business, FragranceNet.com has created hundreds of photographs of the products it offers for sale, including the Photographs. The background, arrangement, lighting, use of shadow, angle and selection of products within each line to be included within the Photographs are among the original elements contributed by the Photographs.

14. FragranceNet.com is the author and copyright owner with respect to the Photographs, which are displayed on the www.fragrancenet.com site so that consumers may see what is offered for sale, and to reassure consumers that they are purchasing legitimate and high quality products.

15. FragranceNet.com registered its rights in and to the Photographs and obtained from the Register of Copyrights, Certificates of Copyright Registration Nos. VA 1-340-784, VA 1-340-783, VA 1-340-782, dated February 21, 2006. Copies of the foregoing registration certificates are annexed hereto as Exhibit A.

16. FragranceNet.com is, and at all relevant times has been, the owner of the copyrights in and to the Photographs.

17. At some time prior to August 1, 2005, FragranceX.com copied more than nine hundred (900) of the Photographs without the authorization of FragranceNet.com and posted them on its competing on-line fragrance store, www.fragranceX.com. Annexed hereto as Exhibit B are representative examples of the Photographs, each followed by a screenshot from Defendant's www.fragranceX.com site showing FragranceX.com's infringing copy of the Photograph. Annexed hereto as Exhibit C is a list of the infringing photographs, by brand and by the gender for which the product is intended. On information and belief, FragranceX.com posts only one photo per product on the Web site of its on-line fragrance store.

18. On August 1, 2005, FragranceNet.com formally notified FragranceX.com that it infringed FragranceNet.com's rights and demanded that FragranceX.com cease and desist from all further infringement. FragranceX.com has failed and refused to do so.

19. On November 21, 2005, FragranceX.com advised FragranceNet.com that, regardless of whether FragranceNet.com brought an action against it for copyright infringement,

FragranceX.com intended to complete a full-scale revision of its Web site by April 1, 2006.

FragranceX.com has not done so.

20. For months FragranceNet.com attempted to resolve the matter, but to no avail.

When FragranceNet.com realized that its efforts were futile, it commenced this action.

21. FragranceNet.com has no adequate remedy at law.

COUNT I
(Copyright Infringement)

22. FragranceNet.com repeats and realleges the allegations contained in paragraphs 1-21 of the Complaint as if fully set forth herein.

23. The actions of Defendants, as undertaken and continued to date, infringe FragranceNet.com's exclusive rights, *inter alia*, to reproduce and distribute the Photographs, all in violation of FragranceNet.com's exclusive copyrights under 17 U.S.C. §§ 104(a) and 106. Such acts constitute copyright infringement under 17 U.S.C. § 501.

24. Defendants' unlawful acts set forth above also constitute willful copyright infringement.

25. FragranceX.com's unlawful acts set forth above constitute contributory copyright infringement.

26. The actions of Defendants complained of herein have caused, are causing and, unless enjoined by the Court, will continue to cause irreparable harm, damage and injury to FragranceNet.com.

27. The actions of Defendants complained of herein have damaged, are damaging and will continue to damage FragranceNet.com in an amount to be determined at trial.

Demand For Relief

WHEREFORE, FragranceNet.com respectfully prays for judgment to be entered against Defendants:

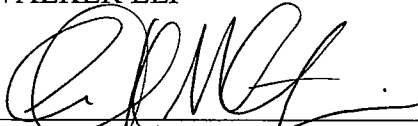
- a. preliminarily and permanently enjoining Defendants, their officers, agents, servants, employees and attorneys, and those persons acting in concert with them from further violating 17 U.S.C. § 101 *et seq.* and inducing, contributing to, causing, engaging or authorizing any individual or entity to perform any of the aforementioned acts;
- b. directing Defendants to account to FragranceNet.com for any and all gains, profits and advantages derived from Defendants' wrongful acts complained of;
- c. directing each Defendant to file with the Court and serve upon counsel for FragranceNet.com within thirty (30) days after entry of any preliminary or permanent injunction issued by this Court, a sworn written statement as provided in 15 U.S.C. § 1116 setting forth in detail the manner and form in which it has complied with the injunction;
- d. awarding damages to FragranceNet.com against Defendants, according to proof at trial;
- e. awarding FragranceNet.com punitive damages in an amount to be determined at trial;
- f. awarding FragranceNet.com its costs pursuant to 17 U.S.C. § 505; and

g. Granting such other and further relief as the Court deems just and proper.

Dated: July 27, 2006

Respectfully submitted,

PAUL, HASTINGS, JANOFSKY
& WALKER LLP

By: 

Robert L. Sherman (RS 5520)

Catherine M. Clayton (CC 5575)

75 E. 55th Street

New York, New York 10022

212-318-6000

Attorneys for Plaintiff

FragranceNet.com, Inc.

EXHIBIT A



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
Register of Copyrights, United States of America

Form VA
For a Work of the Visual Arts
UNITED STATES COPYRIGHT OFFICE

VA 1-340-784



EFFECTIVE DATE OF REGISTRATION

Feb 21 2006
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

Title of This Work ▼

NATURE OF THIS WORK ▼ See instructions

FragranceNet.com Photographs (Group 1)

Photographs

Previous or Alternative Titles ▼

Group Registration/Photos (approximately 1975 photos in grouping)

Publication as a Contribution: If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

Publication as a contribution to a Web site

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

NAME OF AUTHOR ▼

*Employer for hire of:

DATES OF BIRTH AND DEATH

a FragranceNet.com, Inc. Anthony Hulser

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes
☐ No

Author's Nationality or Domicile

OR { Citizen of _____
Domiciled in United States

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☒ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Name of Author ▼

Dates of Birth and Death

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes
☐ No

Author's Nationality or Domicile

OR { Citizen of _____
Domiciled in _____

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

3

a Year in Which Creation of This Work Was Completed

2003

This information must be given in all cases.

b Date and Nation of First Publication of This Particular Work

approximately

Complete this information ONLY if this work has been published.

Month 12

Day 20

Year 2003

United States

Nation

4

See instructions before completing this space.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

FragranceNet.com, Inc., 104 Parkway Drive South, Hauppauge, New York, NY 11788

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

FEB 21 2006

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

FEB 21 2006

FUNDS RECEIVED

MORE ON BACK ►

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE
Page 1 of 2 pages

EXAMINED BY	FORM VA
CHECKED BY	
<input type="checkbox"/> CORRESPONDENCE	FOR
Yes	COPYRIGHT
	OFFICE
	USE
	ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▾

a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author or copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▾

Year of Registration ▾

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▾

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▾

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▾

Account Number ▾

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▾

Catherine M. Clayton, Esq.

Paul, Hastings, Janofsky & Walker LLP, 75 East 55th Street, New York, NY 10022

Area code and daytime telephone number (212) 318.6084

Fax number (212) 230.7781

Email ris@paulhastings.com

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▸

☐ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☒ authorized agent of FragranceNet.com, Inc.

Name of author or other copyright claimant, or owner of exclusive right(s) A

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▾ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Dennis M. Apfel

Date 2/10/06

Handwritten signature (s) ▾

X

Certificate will be mailed in window envelope to this address:

Name ▾

Catherine M. Clayton, Esq.

Paul, Hastings, Janofsky & Walker LLP

Number/Street/Apt ▾

75 East 55th Street

City/State/ZIP ▾

New York, NY 10022

• Complete all necessary spaces
• Sign your application in space 8

1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20540-8000

Postage subject to change. For current rates, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-5900.

*17 U.S.C. § 506(a): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 406, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

**Form VA**

For a Work of the Visual Arts
UNITED STATES COPYRIGHT OFFICE

RE: **VA 1-340-783**



EP: *Feb 21 2006*
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

Title of This Work ▼

NATURE OF THIS WORK ▼ See instructions

FragranceNet.com Photographs (Group 2)

Photographs

Previous or Alternative Titles ▼

Group Registration/Photos (approximately 846 photos in grouping)

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

Publication as a contribution to a Web site

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

NAME OF AUTHOR ▼

*Employer for hire of:

DATES OF BIRTH AND DEATH

a FragranceNet.com, Inc. Anthony Hulser

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes

☐ No

Author's Nationality or Domicile
Name of Country

OR

Citizen of

Domiciled in United States

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture

☐ Map

☐ Technical drawing

☐ 2-Dimensional artwork

☒ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

Name of Author ▼

Dates of Birth and Death

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes

☐ No

Author's Nationality or Domicile
Name of Country

OR

Citizen of

Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture

☐ Map

☐ Technical drawing

☐ 2-Dimensional artwork

☐ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

3

Year in Which Creation of This Work Was

Completed

2004

This information must be given in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month 11 Day 25 Year 2004

approximately

Nation

4

See instructions before completing this space.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

FragranceNet.com, Inc., 104 Parkway Drive South, Hauppauge, New York, NY 11788

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

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TWO DEPOSITS RECEIVED

FEB 21 2006

FUNDS RECEIVED

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• See detailed instructions. • Sign the form at line 8.

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Page 1 of 2 pages

EXAMINED BY _____ FORM VA
CHECKED BY _____
☐ CORRESPONDENCE
Yes _____
FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▾

a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author as copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▾

Year of Registration ▾

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▾

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▾

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▾ Account Number ▾

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▾

Catherine M. Clayton, Esq.

Paul, Hastings, Janofsky & Walker LLP, 75 East 55th Street, New York, NY 10022

Area code and daytime telephone number (212) 318.6084

Fax number (212) 230.7781

Email rls@paulhastings.com

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▸

☐ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☒ authorized agent of FragranceNet.com, Inc.

Name of author or other copyright claimant, or owner of exclusive right(s) A

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▾ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Dennis M. Apfel

Date 2/10/06

Handwritten signature (X) ▾

X

Certificate will be mailed in window envelope to this address:

Name ▾ Catherine M. Clayton, Esq.
Paul, Hastings, Janofsky & Walker LLP
Number/Street/Apt ▾
75 East 55th Street
City/State/ZIP ▾
New York, NY 10022

* Complete all necessary spaces
* Sign your application in space 9

1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20540-8000

Fee is subject to change. For current fees, check the Copyright Office website at www.copyright.gov, or call (202) 707-5900.

*17 U.S.C. § 502(c): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.



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Marybeth Peters

Register of Copyrights, United States of America



Form VA
For a Work of the Visual Arts

VA 1-340-782



EFFECTIVE DATE OF REGISTRATION

Feb 21 2006
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

Title of This Work ▼

NATURE OF THIS WORK ▼ See instructions

FragranceNet.com Photographs (Group 3)

Photographs

Previous or Alternative Titles ▼

Group Registration/Photos (approximately 382 photos in grouping)

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

Publication as a contribution to a Web site

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

NAME OF AUTHOR ▼ *Employer for hire of:

a FragranceNet.com, Inc. Matthew Hulser

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes

☐ No

Author's Nationality or Domicile

Name of Country

OR

Citizen of

Domiciled in

United States

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture

☐ Map

☐ Technical drawing

☐ 2-Dimensional artwork

☒ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

Name of Author ▼

Dates of Birth and Death

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

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☐ No

Author's Nationality or Domicile

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OR

Citizen of

Domiciled in

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☐ 2-Dimensional artwork

☐ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

3

Year in Which Creation of This Work Was

Completed

2005

This information must be given Year in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month 11 Day 10 Year 2005

approximately

Nation

4

See instructions before completing this space.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

FragranceNet.com, Inc., 104 Parkway Drive South, Hauppauge, New York, NY 11788

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

FEB 21 2006

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

FEB 21 2006

FUNDS RECEIVED

MORE ON BACK ►

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2 pages

EXAMINED BY	FORM VA
CHECKED BY	
<input type="checkbox"/> CORRESPONDENCE	FOR
Yes	COPYRIGHT
	OFFICE
	USE
	ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

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a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author as copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number

Year of Registration

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b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

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Name Account Number

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP

Catherine M. Clayton, Esq.
Paul, Hastings, Janofsky & Walker LLP, 75 East 55th Street, New York, NY 10022

Area code and daytime telephone number (212) 318.6084

Fax number (212) 230.7781

Email ris@paulhastings.com

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one

- ☐ author
- ☐ other copyright claimant
- ☐ owner of exclusive right(s)
- ☒ authorized agent of: FragranceNet.com, Inc.

Name of author or other copyright claimant, or owner of exclusive right(s)

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

Dennis M. Apfel

Date 2/13/06

Handwritten signature (X)

X

Certificate will be mailed in window envelope to this address:

Name Catherine M. Clayton, Esq.
Paul, Hastings, Janofsky & Walker LLP
Number/Street/Apt
75 East 55th Street
City/State/ZIP
New York, NY 10022

Complete all necessary spaces
Sign your application in space 8

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Copyright Office
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*17 U.S.C. § 504(a): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$1,000.

EXHIBIT B

FragranceNet.com, Inc. Photograph:



Screenshot of Defendant FragranceX.com's Unauthorized and Infringing Copy:

Cassini Perfume for Women by Oleg Cassini - Paul, Hastings, Janofsky & Walker LLP

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Address http://www.fragrancex.com/products/_lid_C-am-pid_45W-am-cid_Perfume__products.html Go

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Currency 888-55-PERFUME(73738)

Home Women's Fragrances Men's Fragrances Skincare Makeup

Search GO **FREE Shipping on orders over \$59 in USA**

Cassini Perfume by Oleg Cassini for Women

In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1 oz			\$11.95
<input type="checkbox"/> Eau De Toilette Spray	3 oz			\$26.95
<input type="checkbox"/> Eau De Parfum Spray	1.7 oz	\$49.00	30%	\$34.54

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

More Oleg Cassini fragrances

for women
Black Tie
for men
Cassini

Women's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

C

C. Darwin
Cabaret
Cabochard
Cabotine
Cabotine Bleu
Cabotine Fleur
Edition
Cabotine Rose
Cabochard

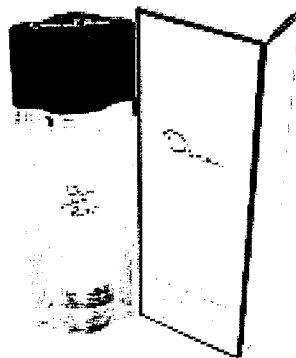
Fragrance Description:

Cassini Perfume by Oleg Cassini, Launched By The Design House Of Oleg Cassini In 1990, Cassini Is Classified As A Sharp, Woody, Mossy Fragrance. This Feminine Scent Possesses A Blend Of Fruits, Oakmoss, Rose, Amber And Jasmine. It Is Recommended For Casual Wear. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

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start F... V... M... #... F... #... #... C... C... 8:06 PM

FragranceNet.com, Inc. Photograph:



Screenshot of Defendant FragranceX.com's Unauthorized and Infringing Copy:

Oscar Perfume for Women by Oscar De La Renta - Paul, Hastings, Janofsky & Walker LLP

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Search GO **FREE Shipping on orders over \$59 in USA**

Oscar Perfume by Oscar De La Renta for Women

Fragrances | Bath & Body | Gift Sets In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Mini EDT	0.13 oz	\$35.00	77%	\$8.21
<input type="checkbox"/> Eau De Toilette Spray Refillable	1 oz	\$30.00	24%	\$22.95
<input type="checkbox"/> Eau De Toilette Spray	1 oz	\$36.00	33%	\$24.15
<input type="checkbox"/> Eau De Toilette Spray	2 oz	\$52.50	50%	\$26.14
<input type="checkbox"/> Eau De Toilette Spray	1.65 oz	\$50.00	46%	\$27.23
<input type="checkbox"/> Eau De Toilette Spray	3.4 oz	\$70.00	45%	\$38.80
<input type="checkbox"/> Eau De Toilette Spray	8 oz	\$140.00	64%	\$50.99

Bath & Body

Description	Size	Retail	Save	Our Price
<input type="checkbox"/> Soap	0.8 oz			\$2.44
<input type="checkbox"/> Body Lotion	1 oz			\$2.90

Women's Fragrances

Select a Letter

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

O

O De Lancome
O.p.i.
Oblique Fast
Forward
Oblique Play
Oblique Rwd
Obsession
Obsession Night
Obsession Choc

Your Cart

You're \$59.00 away From Free Shipping!

More Oscar De La Renta fragrances

for women
Intrusion
Oscar Bamboo
Rosamor
So De La Renta
see more >>
for men
Oscar
Oscar Pour Lui

[Back to top](#)

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start F. V. M. #. F. #. #. O. C. D. 8:08 PM

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Rosamor Perfume for Women by Oscar De La Renta - Paul, Hastings, Janofsky & Walker LLP

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888-55-PERFUME(73738)

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Search GO **FREE Shipping on orders over \$59 in USA**

Rosamor Perfume by Oscar De La Renta for Women

In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1.6 oz	\$48.00	21%	\$37.71
<input type="checkbox"/> Eau De Toilette Spray	3.4 oz			\$40.50

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

More Oscar De La Renta fragrances

for women
Intrusion
Oscar
Oscar Bamboo
Oscar Violet
see more >>
for men
Oscar
Oscar Pour Lui

Women's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

R

Raffinee
Ralph
Ralph Cool
Ralph Hot
Ralph Lauren
Ralph Lauren Blue
Ralph Lauren Style
Rampage
Raphaël

Fragrance Description:

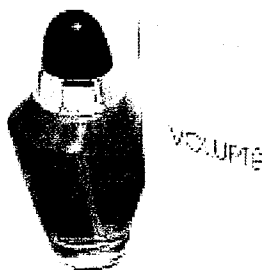
Rosamor Perfume by Oscar De La Renta, Rosamor By The Design House Of Oscar De La Renta Is A Dazzling Woody Florals With Fruity And Floral Accords. A Warm, Rich Aroma With A Sexy Latin Name. Rosamor Is Perfect For All Women. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

See all Oscar De La Renta products

Customer Rating: **4.5**
Rate this fragrance

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Volupte Perfume for Women by Oscar De La Renta - Paul, Hastings, Janofsky & Walker LLP

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Currency \$ \$ \$ \$

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Search GO **FREE Shipping on orders over \$59 in USA**

Volupte Perfume by Oscar De La Renta for Women

In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1.7 oz	\$48.00	47%	\$25.59
<input type="checkbox"/> Eau De Toilette Spray	3.4 oz	\$62.00	44%	\$34.74

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

More Oscar De La Renta fragrances

for women
Intrusion
Oscar
Oscar Bamboo
Rosamor
see more >>
for men
Oscar
Oscar Pour Lui

Women's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

V

Valentino
Valentino Gold
Valentino V
Valentino V Absolu
Van Cleef
Van Cleef & Arpels
Van Gogh
Vanderbilt
Vanilla Coko Butter

Fragrance Description:

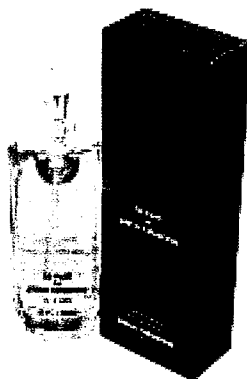
Volupte Perfume by Oscar De La Renta, Launched By The Design House Of Oscar De La Renta In 1992, Volupte Is Classified As A Sharp, Oriental, Floral Fragrance. This Feminine Scent Possesses A Blend Of Melon, Mandarin, Mimosa, Carnation, Lily Of The Valley, And Jasmine. Accompanied By The Rich Bouquet Of Incense And Amber. It Is Recommended For Daytime Wear. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

See all Oscar De La Renta products

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FragranceNet.com, Inc. Photograph:



Screenshot of Defendant FragranceX.com's Unauthorized and Infringing Copy:

La Nuit Perfume for Women by Paco Rabanne - Paul, Hastings, Janofsky & Walker LLP

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Currency: \$

Home Women's Fragrances Men's Fragrances Skincare Makeup

888-55-PERFUME(73738)

Search GO FREE Shipping on orders over \$59 in USA

La Nuit Perfume by Paco Rabanne for Women

Your Cart: You're \$59.00 away From Free Shipping!

The items below are not in stock at this time. We can notify you when they become available. Simply select the items you wish to be notified of and click "contact when available".

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1 oz	N/A	N/A	N/A

Click "Contact when available" to be notified when an item is back in stock [Contact when available](#)

More Paco Rabanne fragrances

for women
Calandre
Liquid Crystal
Metal
Paco Energy
see more >>

for men
Black Xs
Eau De Paco Rabanne
Liquid Metal
Paco Energy
see more >>

Women's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

L

L De Lolita
Lempicka
L' Elue
L Wild
La Nuit
La Perla
La Perla Blue
La Perla Charme
La Perla Creation

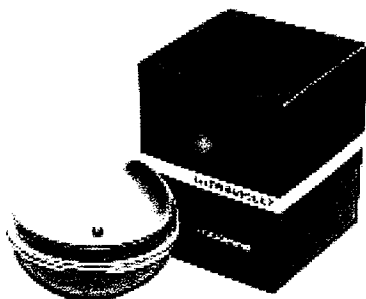
Fragrance Description:

La Nuit Perfume by Paco Rabanne, Launched By The Design House Of Paco Rabanne In 1987, La Nuit Is Classified As A Luxurious, Woody, Arid Fragrance. This Feminine Scent Possesses A Blend Of A Subtle Floral And Spicy Scent With High Notes Of Patchouli. It Is Recommended For Romantic Wear. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

See all Paco Rabanne products

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Ultraviolet Perfume for Women by Paco Rabanne - Paul, Hastings, Janofsky & Walker LLP

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Ultraviolet Perfume by Paco Rabanne for Women

Fragrances | Bath & Body In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Parfum Spray	1.7 oz	\$58.00	44%	\$32.67
<input type="checkbox"/> Eau De Parfum Spray	2.8 oz	\$70.00	35%	\$45.43

Bath & Body

Description	Size	Retail	Save	Our Price
<input type="checkbox"/> Shower Gel	6.7 oz	\$40.00	57%	\$17.22

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

Women's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

U

Ulric De Varens
Ultima II
Ultraviolet
Ultraviolet Aquatic
Ultraviolet
Fluorescence
Ultraviolet Intense
Un Air De Samsara
Un Jardin En

More Paco Rabanne fragrances

for women
Calandre
La Nuit
Liquid Crystal
Metal
see more >>
for men
Black Xs
Eau De Paco Rabanne
Liquid Metal
Paco Energy
see more >>

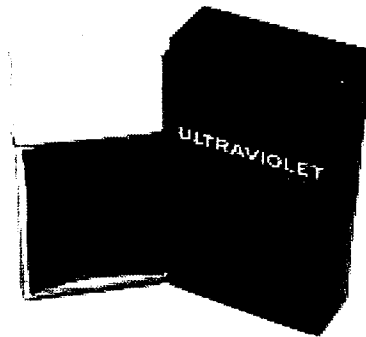
Fragrance Description:

Ultraviolet Perfume by Paco Rabanne, Launched By The Design House Of Paco Rabanne In 2000, Ultraviolet Is Classified As A Refreshing, Oriental, Floral Fragrance. This Feminine Scent Possesses A Blend Of An Exotic And Modern Oriental With Lower

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FragranceNet.com, Inc. Photograph:



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Ultraviolet Cologne for Men by Paco Rabanne - Paul. Hastings, Janofsky & Walker LLP

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Home Women's Fragrances Men's Fragrances Skincare Makeup **888-55-PERFUME(73738)**

Search **GO** **FREE Shipping on orders over \$59 in USA**

Ultraviolet Cologne by Paco Rabanne for Men

In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1.7 oz	\$45.00	38%	\$27.81
<input type="checkbox"/> Eau De Toilette Spray	3.4 oz	\$56.00	30%	\$39.39

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

More Paco Rabanne fragrances

for women
Calandre
La Nuit
Liquid Crystal
Metal
see more >>

for men
Black Xs
Eau De Paco Rabanne
Liquid Metal
Paco Energy
see more >>

Men's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

U

Ultraviolet
Ultraviolet
Fluorescence
Ultraviolet Liquid
Metal
Ulysse
Un Jardin En
Mediterranee
Unbound

Fragrance Description:

Ultraviolet Cologne by Paco Rabanne, Launched By The Design House Of Paco Rabanne In 2001 As A Daily Use Fragrance. Ultraviolet Cologne By Paco Rabanne Is A Blend Of Peppery Spice, Kinmousei, Amber, And Vanilla. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

See all Paco Rabanne products

Customer Rating: Rate this fragrance

Done Internet

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Screenshot of Defendant FragranceX.com's Unauthorized and Infringing Copy:

Xs Extreme Perfume for Women by Paco Rabanne - Paul, Hastings, Janofsky & Walker LLP

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Search **GO** **FREE Shipping on orders over \$59 in USA**

Xs Extreme Perfume by Paco Rabanne for Women

In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1.7 oz	\$48.00	47%	\$25.53

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

Women's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

X

Xia Xiang
Xoxo
Xs
Xs Extreme
Xyx

Fragrance Description:

Xs Extreme Perfume by Paco Rabanne, Fun And Enticing Xs Extreme By The Design House Of Paco Rabanne Was Introduced In 2001 As A Refreshing Fragrance For Women. Sweet And Spicy, This Youthful, Young Aroma Is A Blend Of Spices, With Almond, Woods And Saffron. Xs Extreme Is Recommended For Daytime Wear. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

More Paco Rabanne fragrances

for women
Calandre
La Nuit
Liquid Crystal
Metal
see more >>
for men
Black Xs
Eau De Paco Rabanne
Liquid Metal
Paco Energy
see more >>

Your Cart

You're \$59.00 away From Free Shipping!

> Join our coupon list

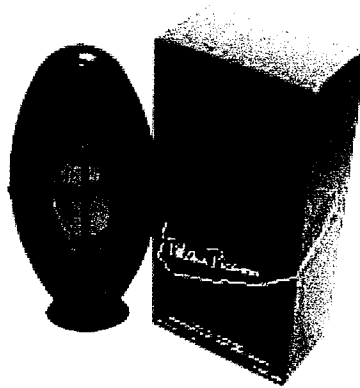
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Customer Rating: Not Yet Rated

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Paloma Picasso Perfume for Women by Paloma Picasso - Paul, Hastings, Janofsky & Walker LLP

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Paloma Picasso Perfume by Paloma Picasso for Women

Fragrances | Bath & Body In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1 oz	\$43.00	22%	\$33.55
<input type="checkbox"/> Eau De Parfum Spray	1 oz	\$45.00	21%	\$35.43
<input type="checkbox"/> Eau De Toilette Spray	1.7 oz	\$80.00	47%	\$42.62
<input type="checkbox"/> Eau De Parfum Spray	1.7 oz	\$55.00	15%	\$46.82
<input type="checkbox"/> Eau De Toilette Spray	3.4 oz	\$70.00	19%	\$56.83
<input type="checkbox"/> Eau De Parfum Spray	3.4 oz	\$80.00	16%	\$67.41

Bath & Body [Back to top](#)

Description	Size	Retail	Save	Our Price
<input type="checkbox"/> Deodorant Spray (Can)	3.4 oz	\$30.00	10%	\$26.95

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

Your Cart

You're \$59.00 away From Free Shipping!

More Paloma Picasso fragrances

for women
Tentations
for men
Minotaure

Women's Fragrances

Select a Letter

A B C D E F G H
I J K L M N O P Q
R S T U V W X Y Z

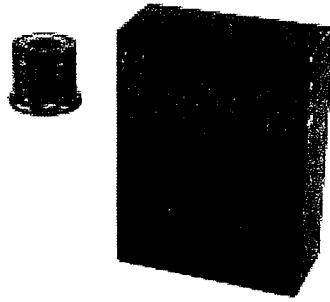
P

P. Picallef
Pacific Paradise
Paco Energy
Paco Pour Elle
Paco Rabanne
Paco Unisex (silver
Bottle)
Paillettes
Paillettes

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Minotaure Cologne for Men by Paloma Picasso - Paul, Hastings, Janofsky & Walker LLP

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Currency

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Search **GO** **FREE Shipping on orders over \$59 in USA**

Minotaure Cologne by Paloma Picasso for Men **Your Cart**
 In Stock and Ready to Ship! You're \$59.00 away From Free Shipping!

Fragrances | Bath & Body

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Vial (sample)	0.04 oz			\$3.00
<input type="checkbox"/> Eau De Toilette	0.5 oz			\$12.95
<input type="checkbox"/> Eau De Toilette	2.5 oz	\$50.00	15%	\$42.32
<input type="checkbox"/> Eau De Toilette Spray	2.5 oz	\$62.00	28%	\$44.64
<input type="checkbox"/> Eau De Toilette Spray	4 oz	\$65.00	12%	\$57.31

Bath & Body **Back to top**

Description	Size	Retail	Save	Our Price
<input type="checkbox"/> Soap	0.8 oz			\$2.50
<input type="checkbox"/> After Shave Balm	1.7 oz			\$9.95

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

More Paloma Picasso fragrances
 for women
 Paloma Picasso
 Tentations

Men's Fragrances
 Select a Letter
 # A B C D E F G H
 I J K L M N O P Q
 R S T U V W X Y Z
 M
 M
 M7
 Mackie
 Magnetism
 Malizia Uomo
 Mambo
 Man Pulsion
 Mania
 More Jacobs

Done Internet

start Se... #7... CD... htt... Vol... #7... htt... Mi... 2:55 PM

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Cabaret Perfume for Women by Parfums Gres - Paul, Hastings, Janofsky & Walker LLP

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Home Women's Fragrances Men's Fragrances Skincare Makeup

Search GO **FREE Shipping on orders over \$59 in USA**

Cabaret Perfume by Parfums Gres for Women

In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Vial (sample)	0.05 oz			\$2.95
<input type="checkbox"/> Eau De Parfum Spray	1.6 oz	\$65.00	57%	\$27.72
<input type="checkbox"/> Eau De Parfum Spray	3.4 oz	\$85.00	65%	\$29.59

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

Women's Fragrances

Select a Letter

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

C

C. Darwin
Cabaret
Cabochard
Cabotine
Cabotine Bleu
Cabotine Fleur
Edition
Cabotine Rose
Cabochard

Fragrance Description:

Cabaret Perfume by Parfums Gres, Seduction Was The Inspiration For Cabaret. This Truly Exceptional Woody-floral Fragrance Is Comprised Of Vibrant Floral Accords Such As Rose, Lily Of The Valley, Peony, And Pink Bay Layered Over Middle Notes Of Incense And Blue Orris, And Finished With Sensual Sandalwood, Amber, And Musk. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

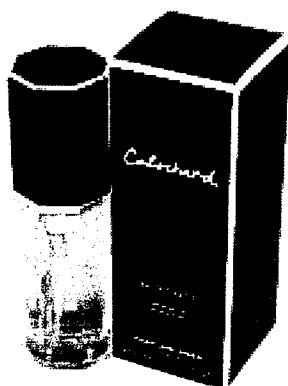
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Cabochard Perfume for Women by Parfums Gres - Paul, Hastings, Janofsky & Walker LLP

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Cabochard Perfume by Parfums Gres for Women

In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	3.4 oz	\$63.00	53%	\$29.59

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

Women's Fragrances

Select a Letter

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

C

C. Darwin
Cabaret
Cabochard
Cabotine
Cabotine Bleu
Cabotine Fleur
Edition
Cabotine Rose
Cabochard

Fragrance Description:

Cabochard Perfume by Parfums Gres, Launched By The Design House Of Parfums Gres In 1959, Cabochard Is Classified As A Refined, Woody, Arid Fragrance. This Feminine Scent Possesses A Blend Of Citrus, Leather, And Tobacco. It Is Recommended For Evening Wear. **All products are original, authentic name brands. We do not sell knockoffs or imitations.**

See all Parfums Gres products

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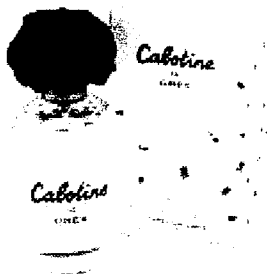
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Cabotine Perfume for Women by Parfums Gres - Paul, Hastings, Janofsky & Walker LLP

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Cabotine Perfume by Parfums Gres for Women

Fragrances | Gift Sets In Stock and Ready to Ship!

Check the items you wish to purchase, then click "Add to Cart" **Add to Cart**

Fragrances

Description	Size	Retail	Save	Our Price
<input checked="" type="checkbox"/> Eau De Toilette Spray	1 oz	\$29.50	55%	\$13.15
<input type="checkbox"/> Eau De Toilette Spray	1.7 oz	\$42.00	48%	\$21.97
<input type="checkbox"/> Eau De Toilette Spray	3.3 oz	\$63.00	55%	\$28.60
<input type="checkbox"/> Eau De Parfum Spray	3.3 oz	\$90.00	61%	\$35.04

Gift Sets

Description	Size	Retail	Save	Our Price
<input type="checkbox"/> Gift Set - 3.4 oz Eau De Toilette Spray + 6.7 oz Body Lotion	--			\$28.75

Click "add to cart" to place checked items into your shopping cart **Add to Cart**

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Women's Fragrances

Select a Letter

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C

C. Darvin
Cabaret
Cabochard
Cabotine
Cabotine Bleu
Cabotine Fleur
Edition
Cabotine Rose
Cabochard

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